

AMENDED IN SENATE APRIL 16, 2012

AMENDED IN SENATE APRIL 9, 2012

SENATE BILL

No. 1207

Introduced by Senator Fuller

February 22, 2012

An act to amend Section 739.1 of the Public Utilities Code, relating to public utility rates.

LEGISLATIVE COUNSEL'S DIGEST

SB 1207, as amended, Fuller. California Alternate Rates for Energy program.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations and gas corporations, as defined. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. The Public Utilities Act requires the commission, in establishing residential electric and gas rates, to assure that the rates are sufficient to enable the electrical or gas corporation to recover a just and reasonable amount of revenue from residential customers as a class, while observing the principle that electricity and gas services are necessities, for which a low affordable rate is desirable while observing that conservation is desirable. The act requires the commission to establish a program of assistance to low-income electric and gas customers, referred to as the California Alternate Rates for Energy or CARE program.

This bill would authorize an electrical or gas corporation to require proof of income eligibility for those CARE program participants whose electricity or gas usage exceeds 400% of baseline usage and to remove a CARE program participant from the program if the program

participant's monthly electricity or gas usage exceeds 600% of baseline usage for a period exceeding 120 days. *The bill would authorize an electrical or gas corporation to require a CARE program participant whose electricity or gas usage exceeds 400% of baseline usage to participate in an energy savings assistance program that includes a residential energy audit and would make participation in an energy savings assistance program mandatory if a CARE program participant's electricity or gas usage exceeds 600% of baseline usage.* The bill would authorize an electrical or gas corporation to back bill a CARE program participant for the difference between the CARE rates they paid and the rate they would have paid if they were not participating in the CARE program when the utility determines the customer does not meet the income eligibility requirements for program participation and the participant fails to provide proof of income eligibility within 90 days after receiving notice of the determination of ineligibility from the utility. The bill would authorize the commission to establish reasonable limitations on an electrical or gas corporation's authority to require back payment pursuant to this authorization. ~~The bill would authorize an electrical or gas corporation to declare a CARE program participant to be ineligible for program participation for a period of 2 years if the utility determines that the program participant is~~ *require that if a CARE program participant is found to be defrauding a utility program by bypassing the meter when using electricity or gas, diversion, altered, imitation, or counterfeit documentation, or misrepresentation of eligibility, that participation in the program be immediately terminated and the person would not be eligible for reinstatement of eligibility for 2 years.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 739.1 of the Public Utilities Code is
- 2 amended to read:
- 3 739.1. (a) As used in this section, the following terms have
- 4 the following meanings:
- 5 (1) "Baseline quantity" has the same meaning as defined in
- 6 Section 739.
- 7 (2) "California Solar Initiative" means the program providing
- 8 ratepayer funded incentives for eligible solar energy systems

adopted by the commission in Decision 05-12-044 and Decision 06-01-024, as modified by Article 1 (commencing with Section 2851) of Chapter 9 of Part 2 and Chapter 8.8 (commencing with Section 25780) of Division 15 of the Public Resources Code.

(3) “CalWORKs program” means the program established pursuant to the California Work Opportunity and Responsibility to Kids Act (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code).

(4) “Public goods charge” means the nonbypassable separate rate component imposed pursuant to Article 7 (commencing with Section 381) of Chapter 2.3 and the nonbypassable system benefits charge imposed pursuant to the Reliable Electric Service Investments Act (Article 15 (commencing with Section 399) of Chapter 2.3).

(b) (1) The commission shall establish a program of assistance to low-income electric and gas customers with annual household incomes that are no greater than 200 percent of the federal poverty guideline levels, the cost of which shall not be borne solely by any single class of customer. The program shall be referred to as the California Alternate Rates for Energy or CARE program. The commission shall ensure that the level of discount for low-income electric and gas customers correctly reflects the level of need.

(2) The commission may, subject to the limitation in paragraph (4), increase the rates in effect for CARE program participants for electricity usage up to 130 percent of baseline quantities by the annual percentage increase in benefits under the CalWORKs program as authorized by the Legislature for the fiscal year in which the rate increase would take effect, but not to exceed 3 percent per year.

(3) Beginning January 1, 2019, the commission may, subject to the limitation in paragraph (4), establish rates for CARE program participants pursuant to this section and Sections 739 and 739.9, subject to both of the following:

(A) The requirements of subdivision (b) of Section 382 that the commission ensure that low-income ratepayers are not jeopardized or overburdened by monthly energy expenditures.

(B) The requirement that the level of the discount for low-income electricity and gas ratepayers correctly reflects the level of need as determined by the needs assessment conducted pursuant to subdivision (d) of Section 382.

(4) Tier 1, tier 2, and tier 3 CARE rates shall not exceed 80 percent of the corresponding tier 1, tier 2, and tier 3 rates charged to residential customers not participating in the CARE program, excluding any Department of Water Resources bond charge imposed pursuant to Division 27 (commencing with Section 80000) of the Water Code, the CARE surcharge portion of the public goods charge, any charge imposed pursuant to the California Solar Initiative, and any charge imposed to fund any other program that exempts CARE participants from paying the charge.

(5) Rates charged to CARE program participants shall not have more than three tiers. An electrical corporation that does not have a tier 3 CARE rate may introduce a tier 3 CARE rate that, in order to moderate the impact on program participants whose usage exceeds 130 percent of baseline quantities, shall be phased in to 80 percent of the corresponding rates charged to residential customers not participating in the CARE program, excluding any Department of Water Resources bond charge imposed pursuant to Division 27 (commencing with Section 80000) of the Water Code, the CARE surcharge portion of the public goods charge, any charge imposed pursuant to the California Solar Initiative, and any other charge imposed to fund a program that exempts CARE participants from paying the charge. For an electrical corporation that does not have a tier 3 CARE rate that introduces a tier 3 CARE rate, the initial rate shall be no more than 150 percent of the CARE baseline rate. Any additional revenues collected by an electrical corporation resulting from the adoption of a tier 3 CARE rate shall, until the utility's next periodic general rate case review of cost allocation and rate design, be credited to reduce rates of residential ratepayers not participating in the CARE program with usage above 130 percent of baseline quantities.

(c) The commission shall work with electrical and gas corporations to establish penetration goals. The commission shall authorize recovery of all administrative costs associated with the implementation of the CARE program that the commission determines to be reasonable, through a balancing account mechanism. Administrative costs shall include, but are not limited to, outreach, marketing, regulatory compliance, certification and verification, billing, measurement and evaluation, and capital improvements and upgrades to communications and processing equipment.

1 (d) The commission shall examine methods to improve CARE
2 enrollment and participation. This examination shall include, but
3 need not be limited to, comparing information from CARE and
4 the Universal Lifeline Telephone Service (ULTS) to determine
5 the most effective means of utilizing that information to increase
6 CARE enrollment, automatic enrollment of ULTS customers who
7 are eligible for the CARE program, customer privacy issues, and
8 alternative mechanisms for outreach to potential enrollees. The
9 commission shall ensure that a customer consents prior to
10 enrollment. The commission shall consult with interested parties,
11 including ULTS providers, to develop the best methods of
12 informing ULTS customers about other available low-income
13 programs, as well as the best mechanism for telephone providers
14 to recover reasonable costs incurred pursuant to this section.

15 (e) (1) The commission shall improve the CARE application
16 process by cooperating with other entities and representatives of
17 California government, including the California Health and Human
18 Services Agency and the Secretary of California Health and Human
19 Services, to ensure that all gas and electric customers eligible for
20 public assistance programs in California that reside within the
21 service territory of an electrical corporation or gas corporation,
22 are enrolled in the CARE program. To the extent practicable, the
23 commission shall develop a CARE application process using the
24 existing ULTS application process as a model. The commission
25 shall work with public utility electrical and gas corporations and
26 the Low-Income Oversight Board established in Section 382.1 to
27 meet the low-income objectives in this section.

28 (2) The commission shall ensure that an electrical corporation
29 or gas corporation with a commission-approved program to provide
30 discounts based upon economic need in addition to the CARE
31 program, including a Family Electric Rate Assistance program,
32 utilize a single application form, to enable an applicant to
33 alternatively apply for any assistance program for which the
34 applicant may be eligible. It is the intent of the Legislature to allow
35 applicants under one program, that may not be eligible under that
36 program, but that may be eligible under an alternative assistance
37 program based upon economic need, to complete a single
38 application for any commission-approved assistance program
39 offered by the public utility.

1 (f) The commission's program of assistance to low-income
2 electric and gas customers shall, as soon as practicable, include
3 nonprofit group living facilities specified by the commission, if
4 the commission finds that the residents in these facilities
5 substantially meet the commission's low-income eligibility
6 requirements and there is a feasible process for certifying that the
7 assistance shall be used for the direct benefit, such as improved
8 quality of care or improved food service, of the low-income
9 residents in the facilities. The commission shall authorize utilities
10 to offer discounts to eligible facilities licensed or permitted by
11 appropriate state or local agencies, and to facilities, including
12 women's shelters, hospices, and homeless shelters, that may not
13 have a license or permit but provide other proof satisfactory to the
14 utility that they are eligible to participate in the program.

15 (g) It is the intent of the Legislature that the commission ensure
16 CARE program participants are afforded the lowest possible
17 electric and gas rates and, to the extent possible, are exempt from
18 additional surcharges attributable to the energy crisis of 2000–01.

19 (h) (1) In addition to random audits of eligibility, an electrical
20 or gas corporation may require proof of income eligibility for those
21 CARE program participants whose electricity or gas usage, *in any*
22 *monthly or other billing period*, exceeds 400 percent of baseline
23 usage. *The authority of an electrical or gas corporation to require*
24 *proof of income eligibility is not limited by the means by which*
25 *the CARE program participant enrolled in the program, including*
26 *if the participant was automatically enrolled in the CARE program*
27 *because of participation in a governmental assistance program.*
28 *If a CARE program participant's electricity or gas usage exceeds*
29 *400 percent of baseline usage, the electrical or gas corporation*
30 *may require the CARE program participant to participate in an*
31 *energy savings assistance program that includes a residential*
32 *energy audit, in order to provide the CARE program participant*
33 *with information and assistance in reducing his or her energy*
34 *usage. Continued participation in the CARE program may be*
35 *conditioned upon the CARE program participant agreeing to*
36 *participate in an energy savings assistance program within 45*
37 *days of notice being given by the electrical or gas corporation*
38 *pursuant to this paragraph. The electrical or gas corporation may*
39 *require the CARE program participant to notify the utility of*
40 *whether the residence is rented, and if so, the identity of the*

1 *landlord, and the electrical or gas corporation may share any*
2 *evaluation and recommendation relative to the residential structure*
3 *that is made as part of an energy audit, with the landlord of the*
4 *CARE program participant.*

5 (2) An electrical or gas corporation may remove a CARE
6 program participant from the program if the program participant's
7 monthly electricity or gas usage exceeds 600 percent of baseline
8 usage for a period exceeding 120 days. *If a CARE program*
9 *participant's electricity or gas usage exceeds 600 percent of*
10 *baseline usage, the electrical or gas corporation shall require the*
11 *CARE program participant to participate in an energy savings*
12 *assistance program that includes a residential energy audit, in*
13 *order to provide the CARE program participant with information*
14 *and assistance in reducing his or her energy usage. Continued*
15 *participation in the CARE program shall be conditioned upon the*
16 *CARE program participant agreeing to participate in the energy*
17 *savings assistance program within 45 days of a notice made by*
18 *the electrical or gas corporation pursuant to this paragraph. The*
19 *electrical or gas corporation may require the CARE program*
20 *participant to notify the utility of whether the residence is rented,*
21 *and if so, the identity of the landlord, and the electrical or gas*
22 *corporation may share any evaluation and recommendation*
23 *relative to the residential structure that is made as part of an*
24 *energy audit, with the landlord of the CARE program participant.*
25 *A CARE program participant shall have 120 days following*
26 *completion of the energy audit to lower his or her energy usage*
27 *or be removed from participation in the program.*

28 (3) If an electrical or gas corporation determines that a CARE
29 program participant does not meet the income eligibility
30 requirements for program participation and the participant fails to
31 provide proof of income eligibility within ~~90~~ 45 days after
32 receiving notice of the determination of ineligibility, the electrical
33 or gas corporation may require back payment for the difference
34 between the CARE program rate and the rate that the subscriber
35 would have been required to pay if ~~they~~ *he or she* were not a CARE
36 program participant. The commission may establish reasonable
37 limitations on an electrical or gas corporation's authority to require
38 back payment pursuant to this paragraph.

39 ~~(4) An electrical or gas corporation may declare a CARE~~
40 ~~program participant to be ineligible for program participation for~~

1 ~~a period of two years if the utility determines that the program~~
2 ~~participant is bypassing the meter when using electricity or gas.~~
3 *(4) A CARE program participant found to be defrauding a utility*
4 *program, including CARE, energy savings assistance, or medical*
5 *baseline, by means of bypassing the meter, diversion, or altered,*
6 *imitation, or counterfeit documentation, or misrepresentation of*
7 *eligibility, shall be immediately terminated from the CARE*
8 *program, and shall not be eligible for reinstatement of eligibility*
9 *for the program for two years following removal from the program.*